

STAFF REPORT
PLANNING COMMISSION

FILE NO.: CP12-025

Submitted: June 27, 2012

PROJECT DESCRIPTION: Conditional Use Permit to allow the remodeling and expansion of an existing gasoline service station/convenience store including the installation of two fuel dispensers, canopy enlargement and a 75 square foot building addition on a 0.66 gross acre site.

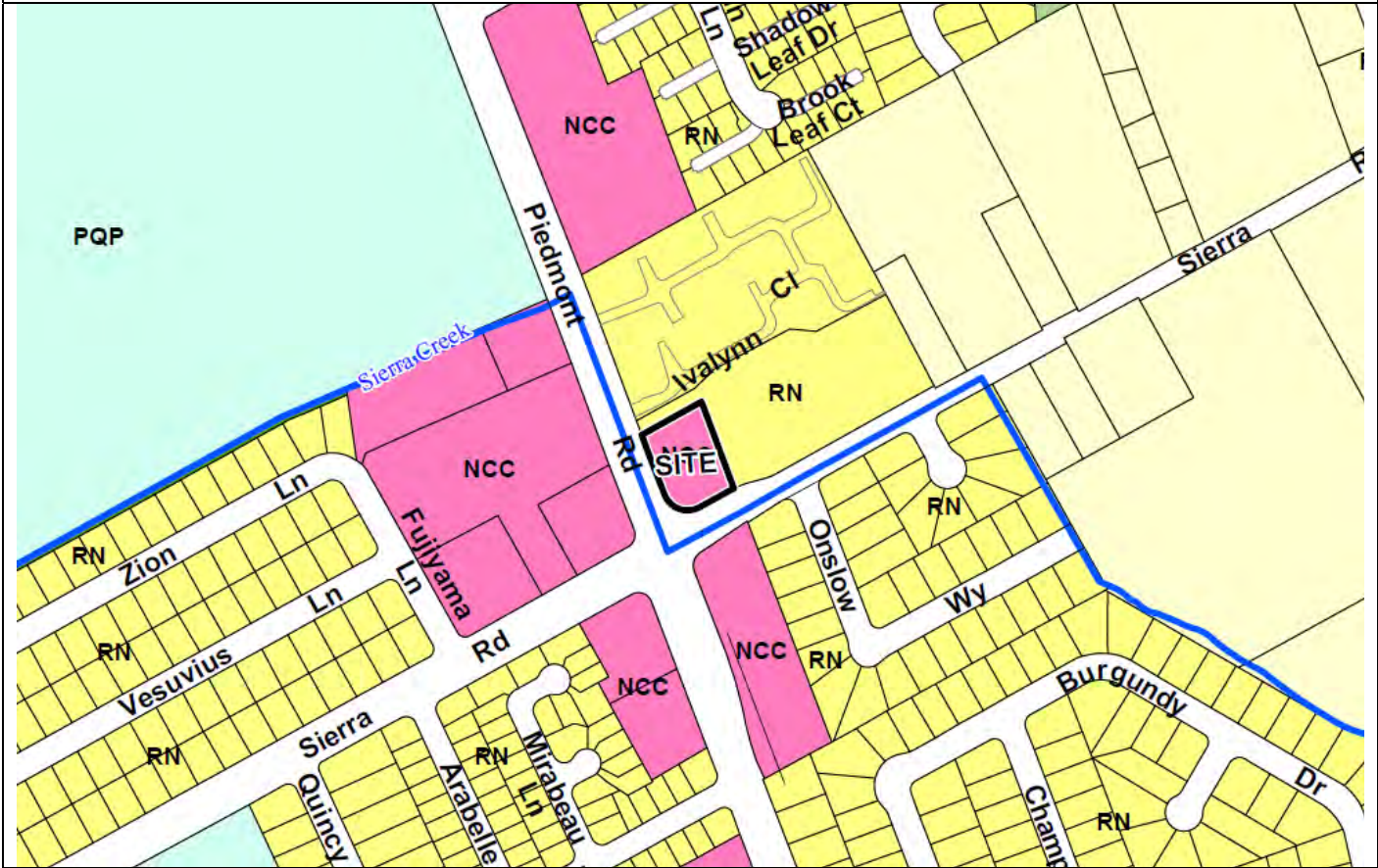
LOCATION: Northeast corner of Piedmont Road and Sierra Road (1304 Piedmont Rd.)

Existing Zoning	CP Commercial Pedestrian
General Plan	Neighborhood/Community Commercial
Council District	4
Annexation Date	3/30/67 (Penetencia No. 2)
Historic Resource	No
Redevelopment Area	N/A
Specific Plan	N/A

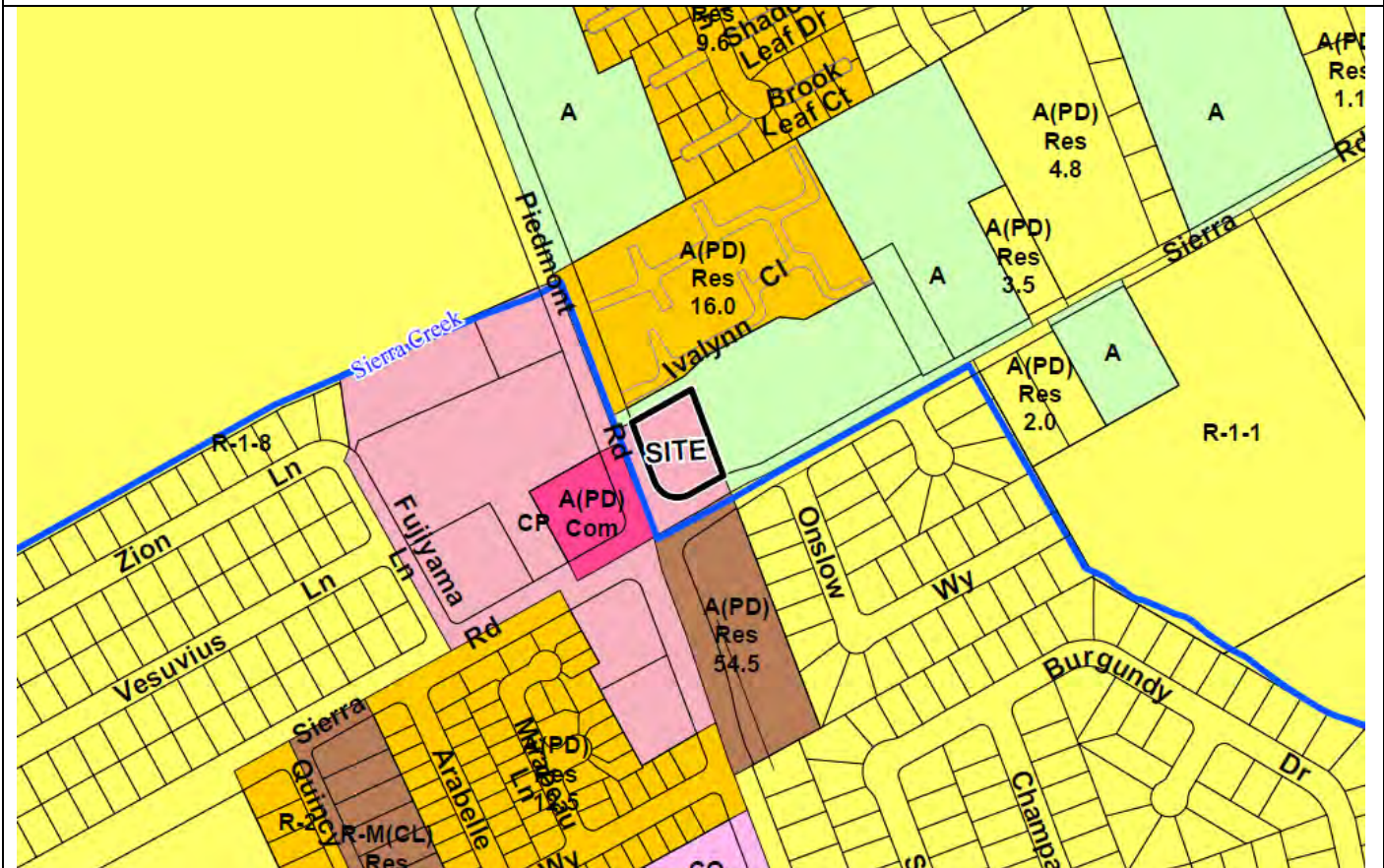
AERIAL MAP



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission approve the proposed Conditional Use Permit for the following reasons:

1. The proposed project is consistent with the Envision San José 2040 General Plan goals and policies, specifically:
 - a. The proposed use is compatible with existing uses in the surrounding area.
 - b. The Neighborhood/Community Commercial designation in the Envision San José 2040 General Plan supports commercial retail and service uses that serve neighboring communities and neighborhoods.
2. The proposed use provides adequate parking in accordance with the requirements of the San Jose Municipal Code, Title 20 (Zoning Ordinance).
3. The project conforms to the development requirements of the CP Commercial Pedestrian Zoning District.
4. The project conforms to the Commercial Design Guidelines.
5. The proposed project conforms to the requirements of California Environmental Quality Act (CEQA). A Negative Declaration (ND) for the proposed project was prepared in conformance with the CEQA.

BACKGROUND & DESCRIPTION

On June 27, 2012, the applicant, Mission Trail Oil Co., on behalf of Robinson Oil Co., applied for a Conditional Use Permit to allow the expansion of a Rotten Robbie gasoline service station and convenience store. This expansion involves the installation of two additional fuel dispensing stations, supplementary canopy structure, and a 75 square foot addition to the front of the building. Inside the building, there is a planned expansion of the current 432 square foot convenience store use to include a former service bay area of 1,185 square feet that is currently being used for storage. The proposed convenience store will then have a new total area of 1,692 square feet. Neither the sale of alcohol for off-site consumption or late-night operation is currently proposed.

The subject site is located within a CP Commercial Pedestrian Zoning District. The proposed gasoline service center/convenience store is considered a Gas Station use under Title 20 (Zoning Ordinance) and requires a Conditional Use Permit in the CP Commercial Pedestrian Zoning District.

The site is located at the northeast corner of Piedmont Road and Sierra Road. The site bounded on two sides by an egg-harvesting use in the A Agricultural Zoning District. There is another gas station on the other side of Piedmont Road to the west and a San José Fire Station to the southwest. To the south of the property across Sierra Road there is multi-family residential. Additionally, there is multifamily residential just north of the site. However, this development is separated from the project site by the driveway for the egg-harvesting business and a 6-foot tall masonry wall.

ANALYSIS

The proposed project was analyzed with respect to conformance with the following: 1) Envision San José 2040 General Plan, 2) the Zoning Ordinance, 3) Commercial Design Guidelines and (4) California Environmental Quality Act (CEQA).

General Plan Conformance

The existing site has an Envision San José 2040 General Plan Land Use/Transportation Diagram designation of Neighborhood/Community Commercial. This designation supports commercial activity of a neighborhood or community scale. Typical uses in the Neighborhood/Community Commercial designation are neighborhood serving retail and service establishments such as the proposed gas station/convenience store.

Additionally, the proposed project promotes the following goals and policies of the San Jose Envision 2040 General Plan with respect to neighborhood serving commercial uses:

1. Goal LU-5 – Neighborhood Serving Commercial: Locate viable neighborhood-serving commercial uses throughout the City in order to stimulate economic development, create complete neighborhoods, and minimize vehicle miles traveled.

The proposed project maintains and revitalizes an existing gas station which, with the expansion of the convenience market, would provide enhanced retail services to the surrounding residential neighborhoods.

2. Policy LU-5.6: Encourage and facilitate the upgrading, beautifying, and revitalization of existing strip commercial areas and shopping centers. Minimize the visual impact of large parking lots by locating them away from public streets.

The proposed project upgrades and expands the existing gas station thereby making the subject site a viable business location.

Zoning Ordinance

The project has been analyzed for consistency with the required development standards of the Commercial Pedestrian Zoning District with regard to setbacks, height and parking.

Setbacks and Height

The CP Commercial Pedestrian Zoning District requires a maximum front setback of 10 feet (no minimum), no side setback, and a rear setback of 25 feet. The additions to the gasoline service area and convenience store conform to the side and rear setback requirements and maintain the existing legal non-conforming front setback. The CP Commercial Pedestrian Zoning District development standards provide for a maximum height of 50 feet. The proposed building height is no greater than 19 feet which is below the maximum height requirement, and is therefore in conformance.

Parking

The Zoning Ordinance requires that a gas station provide one parking space per employee, one space per air and water station, and one space for patrons stopping for information. Additionally, the Zoning Ordinance requires the retail use, in this case the convenience store, to provide one space per 200 square feet of net floor area. The subject project employs one person, has one air and water station and proposes 1,438 gross square feet of retail space. Therefore, the gas station use requires three parking spaces and the retail use requires eight parking spaces for a total of eleven required parking spaces. The project provides five parking spaces plus six fueling stations (which are allowed to be counted as one space each) for a total of eleven. Therefore, the proposed project achieves the Zoning Ordinance requirement for off-street parking.

Commercial Design Guidelines

The project has been analyzed based on the standards recommended in the *Commercial Design Guidelines* with respect to building design and circulation.

Building Design

The Guidelines recommend that all structures on the site should be architecturally consistent with the main structure, that they contribute to a positive street presence, and that a structure with temporary appearance is not appropriate. The proposed canopy is situated on the site so as to best relate to the street while the trash collection area is located in the rear of the building away from public view. Architectural building elements such as the building entrance canopy provide depth and variation. The building materials of stone veneer, board and batten metal panels, and metal canopy will match the existing building and canopy. The materials of the three elements of the site, convenience store, trash enclosure, and pump island canopy are consistent in terms of design and materials.

Parking and Circulation

The Guidelines recommend that each pump island include stacking for two vehicles equal to approximately 40 feet. The location of the pump islands on the site accommodates this stacking of two vehicles in that there is approximately 50 feet of open paved area adjacent to the pump islands along with additional circulation area throughout the paved fueling truck path behind the building. The pump islands themselves are spaced 32 and 27 feet apart from each other, which is far enough apart that a car could be located on both sides of each pump without conflict. In this two-by-three pump array, there is a 26 foot aisle which is adequate for maneuvering between the pumps. One of the two existing driveways on Piedmont Road is proposed to be removed and replaced with landscaping.

California Environmental Quality Act (CEQA)

Currently, the project is listed on the Santa Clara County Local Oversight list as having a Fuel Leak Case and Rotten Robbie has been undergoing the process of filing for a Fuel Leak Closure. The site is now on track for Fuel Leak Case Closure.

The City has performed environmental review of the project. Based on this review, the Director of Planning, Building and Code Enforcement prepared an Initial Study (IS) and a draft Negative Declaration (ND) for the subject site. The documents were circulated for public review between January 10, 2013 and February 8, 2013. The ND states that the proposed Conditional Use Permit will not have a significant effect on the environment.

Conclusion

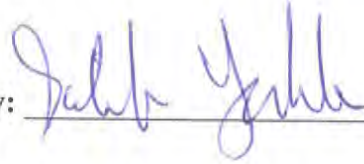
Based on the above analysis, staff concludes that the proposed project is consistent with the General Plan goals and policies and conforms to the standards of the Zoning Ordinance with respect to setbacks, height and parking. The proposed project also is consistent with the Commercial Design Guidelines with respect to building design and circulation.

PUBLIC OUTREACH

Notices of the public hearing for this project were sent to all property owners within 500 feet of subject property. The Planning Commission Agenda is posted on the City's website. Staff has been available to discuss the project with members of the public.

Project Manager: Matthew VanOosten

Approved by:



Date:

2/5/13

Owner/Applicant:	Attachments:
ROBINSON OIL COMPANY 955 MARTIN AVE SANTA CLARA CA 95050-2602	Draft Resolution Site Map Building Department Memo Public Works Department Memo Draft Negative Declaration
ROBINSON OIL COMPANY 955 MARTIN AVE SANTA CLARA CA 95050-2602	

RESOLUTION NO. _____

Resolution of the Planning Commission of the City of San José granting, subject to conditions, a Conditional Use Permit to allow the remodeling and expansion of an existing gasoline service station/ convenience store including the installation of two fuel dispensers, canopy enlargement and a 75 square foot building addition on a 0.45 acre site (1655 Foxworthy Ave).

FILE NO. CP12-025

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSÉ:

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on June 27, 2012, an application (File No. CP12-025) was filed for a Conditional Use Permit for the purpose of allowing the remodel of an existing gas station and legalization of an existing convenience store on that certain real property (hereinafter referred to as "subject property"), situate in the CP – Commercial Pedestrian Zoning District, located on the northeast corner of Piedmont Road and Sierra Road (1304 Piedmont Road), San José, and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this Planning Commission received in evidence a development plan for the subject property entitled, "Rotten Robbie #43, San José, California, 1304 Piedmont Road, San José, California 95132" dated September 13, 2012" dated September 13, 2012. Said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this Planning Commission;

NOW, THEREFORE:

After considering evidence presented at the Public Hearing, the Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. The 0.66 acre site located on the northeast corner of Piedmont Road and Sierra Road (1304 Piedmont Road) within the CP Commercial Pedestrian Zoning District.
2. The subject site is designated Neighborhood/Community Commercial on the Envision San José 2040 General Plan.
3. The site is currently developed as an existing gas station, including 4 pump islands under one canopies, and a 1,617 square foot building.
4. The project will also add two new fuel dispensing stations along with additions to the existing canopy to cover them.
5. One existing driveway on Piedmont Road will be closed and replaced with landscaping.
6. New landscaping will be added to the perimeter of the site.
7. The current retail space in the building will increase from 432 square feet to 1,692 square feet.
8. The gas station and retail use requires eleven (11) parking spaces based on the City Zoning Ordinance requirements.
9. The site provides eleven (11) parking spaces.
10. Neither the off-site sale of alcohol or operation between midnight and 6 AM is proposed as part of the Conditional Use Permit.
11. The Director of Planning, Building and Code Enforcement prepared an Initial Study (IS) and a draft Negative Declaration (ND) was created for the subject site.

This Planning Commission concludes and finds, based upon an analysis of the above facts with respect to the Site Development Permit findings (Section 20.100.630) that:

1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious in that:
 - a. The proposal only includes minor exterior changes to the existing buildings façade and these are to reflect interior changes. A new covered trash enclosure is being added and is being moved to the rear of the building. The new pump islands and canopies will mimic and merely extend the current form and design of the existing facilities.
2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 - a. The proposal does not change the orientation and location of the existing building structures. The proposal includes new landscaping and a new covered trash enclosure at the rear of the existing building. These changes will continue to reflect the commercial and neighborhood orientation of the project's surrounding uses.

3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
 - a. The City has performed environmental review of the project. Based on this review, the Director of Planning, Building and Code Enforcement prepared an Initial Study (IS) and a Negative Declaration for the subject site. The Negative Declaration states that the proposed Conditional Use Permit will not have a significant effect on the environment.
 - b. The proposed project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the California Department of Fish and Game Code.
4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.
 - a. The proposed project includes adding landscaping in place of the closed driveway and adding landscaping on all sides of the project site.
5. Traffic access, pedestrian access and parking are adequate.
 - a. The proposed project improves pedestrian and vehicular circulation around the property by closing one of two existing driveways along Piedmont Road. The two remaining proposed driveways provide sufficient vehicle access to the site.
 - b. The proposed number, size and access of parking spaces for the proposed gas station and convenience store use comply with the requirements of the Zoning Ordinance.
6. The application is either consistent with the General Plan or counterbalancing considerations justify the inconsistency.
 - a. The proposed gas station and convenience store use are consistent with the site's General Plan land use designation of Neighborhood/Community Commercial.

Planning Commission concludes and finds, based upon an analysis of the above facts with respect to the Conditional Use Permit findings (Section 20.100.720) that:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of a property of other persons located within the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
3. The proposed site is adequately served:

- a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
- b. By other public or private service facilities as are required in that:
 - i. The Public Works Department performed an in-house traffic study and concluded that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:

1. **Acceptance of Permit.** Per Section 20.100.290(B), should the applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - a. Acceptance of the Permit by the applicant; and
 - b. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of this permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. The Director of Planning may approve a Permit Adjustment/Amendment extending the permit in accordance with Title 20.
3. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

4. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this permit shall be deemed acceptance of all conditions specified in this permit and the applicant's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described by the "Building Code" shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.
5. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Rotten Robbie #43, San José, California, 1304 Piedmont Road, San José, California 95132" dated September 13, 2012 on file with the Department of Planning, Building and Code Enforcement, and to the San José Building Code (San José Municipal Code, Title 24).
6. **Public Works Department Clearance.** Prior to the issuance of Building permits, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.
 - a. *Minor Improvement Permit:* The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
 - b. *Stormwater Runoff Pollution Control Measures:* The use of the site as a Gas Station is a Land Use of Concern per the Post Construction Urban Runoff Policy (Council Policy 6-29). Source control measures are required and, at a minimum, vehicle or equipment fueling areas and loading docks must be covered and paved and the surrounding portions of the site graded to prevent stormwater runoff from contacting and conveying gasoline and other vehicle-related pollutants into the storm drain system.
 - c. *Grading/Geology:*
 - i. A grading permit is required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - ii. A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
 - iii. All on-site storm drainage conveyance facilities shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval.
 - d. *Sewage Fees:* In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.

- e. *Undergrounding:*
 - i. The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Piedmont Road prior to issuance of a Public Works clearance. 50 percent of the base fee in place at the time of payment will be due. Currently, the 2012 base fee is \$412 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's 20 City Average Cost Index. . The project will be required to pay the current rate in effect at the time the Public Works Clearance is issued. (Based on 2012 rate, the fee is approximately \$65,300.)
 - ii. The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Piedmont Road. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.
 - f. *Street Improvements:*
 - i. Applicant shall be responsible for removing and replacing curb, gutter, and sidewalk damaged during construction of the proposed project.
 - ii. Replace existing cracked pavement at VTA Bus Stop.
 - iii. Reconstruct bus pad on Piedmont Road to current VTA Standards.
 - iv. Driveway closest to the intersection of Piedmont Road and Sierra Road is to be closed.
 - v. The northernmost driveway on Piedmont Road to be 36' maximum.
 - vi. Upgrade existing handicap ramp at the corner of Piedmont Road and Sierra Road to current CSJ standards.
 - g. *Electrical:* Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans
 - h. *Referrals:* This project should be referred to the Valley Transportation Authority (VTA).
7. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, CP12-025, shall be printed on all plans submitted to the Building Division.
 - b. *Construction Plan Conformance.* A project construction plan conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to any building permit issuance, building permit plans shall conform to the approved Planning development permits and applicable conditions.
8. **Compliance with Local and State Laws.** The subject use shall be conducted in full compliance with all local and state laws. No part of this approval shall be construed to permit a violation of any part of the San José Municipal Code or state laws. The Permit shall be subject to revocation if the subject use is conducted in such a manner as to cause a nuisance.

9. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
10. **Landscaping.** Landscaped areas shall be maintained and watered and all dead plant material is to be removed and replaced by the property owner.
11. **Bicycle Parking.** The project is required to provide bicycle parking (short-term and long-term) consistent with the requirements of the City of San José Zoning Code Chapter 20.90.
12. **Removing Graffiti.** The Provider shall promptly remove all graffiti on any structure within 48 hours. In the event the Provider fails to remove all graffiti from the structure within two business days following receipt of notification from the City, the City shall have the right to remove any graffiti and the Provider shall reimburse the City for all costs incurred for the removal within 30 days of receipt of a bill for the work done.
13. **Signs.** No new signs are approved with this permit. Any new signs shall secure appropriate approvals by the City.
14. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
15. **Roof Equipment.** No new roof equipment is permitted with this permit.
16. **Outdoor Storage.** No outdoor storage is allowed with this permit.
17. **California Environmental Quality Act.** Continue to work with the County of Santa Clara until the Leaking Underground Storage Tank issue is resolved.
18. **Building and Property Maintenance.** The developer shall maintain the property in good visual and functional condition. This shall include, but not be limited to all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping.
19. **Refuse/Recycling.** All trash/recycling areas shall be effectively screened from view and covered, and maintained in an orderly state to prevent water from entering into the garbage and recycling containers. No outdoor storage is allowed/permitted. Trash areas shall be maintained in a manner to discourage illegal dumping. The developer shall ensure that the trash/recycling area size, and frequency of collection, is adequate for the site operations. The City will be enhancing elements of the solid waste management program for commercial and industrial developments, which include the recycling of food waste and related materials starting July 2012.
20. **Fire Safety.** Compliance with all applicable fire and building codes and standards relating to fire and panic safety shall be verified by the Fire Department during the Building Permit process to the satisfaction of the Fire Chief. Prior to Building Clearance, all requirements for Fire Safety shall be met to the satisfaction of the Fire Chief.
21. **Discretionary Review.** The Director of Planning, Building and Code Enforcement maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Conditional Use Permit incorporated by reference in this Permit in accordance with the San José, Municipal Code.
22. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:

- a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates a nuisance.
- d. The applicant shall obtain and operate in conformance with the conditions of all permits required by other responsible agencies.

ADOPTED and issued this **13th day of February 2013**, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

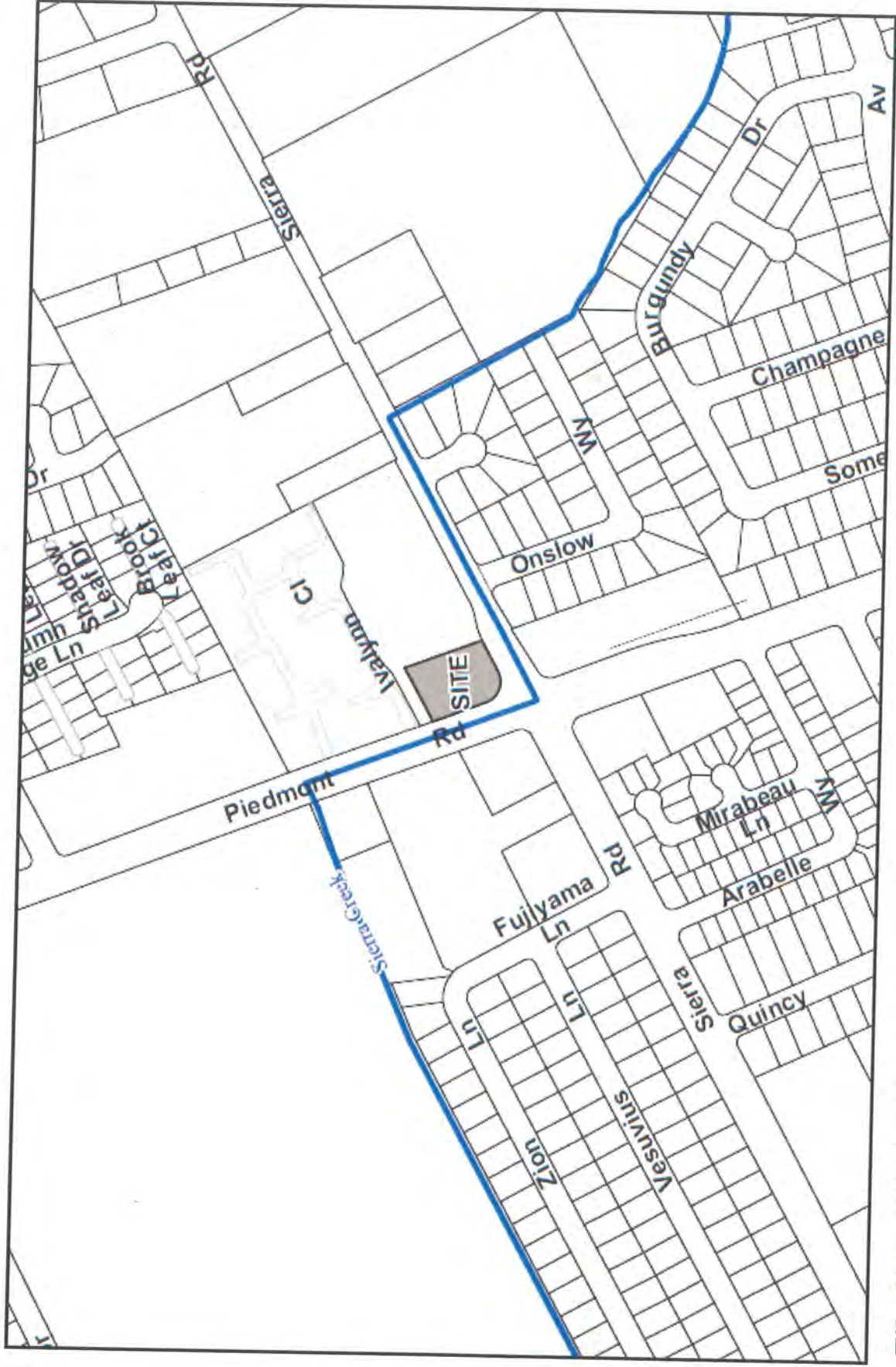
EDESA BIT-BADAL
Chairperson

ATTEST:

JOSEPH HORWEDEL
Director of Planning Building & Code Enforcement
Planning Commission Secretary

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.



File No: CP12-025
District: 4

LOCATION



Prepared by the Department of Planning
Building and Code Enforcement
07/18/2012

Memorandum

BUILDING CODE ISSUES, PRELIMINARY REVIEW

DATE: 07/12/12

TO: Sylvia Do

FROM: Olivier Baviere

Re: Building Division Comments

PLANNING NO: CP12-025

DESCRIPTION: Conditional Use Permit to remodel an existing gasoline service station and legalize and expand an existing convenience store use, and add two new fuel dispensers and a canopy.

LOCATION: Northeast corner of Piedmont Road and Sierra Road

ADDRESS: Northeast corner of Piedmont Road and Sierra Road (1304 PIEDMONT RD)

FOLDER #: 12 018633 AO

The Building Division review is limited to general compliance with the 2010 California Building Code. This review should not be construed as a comprehensive plan check review that is required by the Building Division before obtaining building permit. This review is only intended to assist the designer toward preparing more detailed plans in obtaining building permit. Items that affect this planning permit should be resolved at this stage.

1.	A building permit is required.
2.	As part of the disabled access upgrades per CBC 1134B, an accessible path of travel from the public way to the store entrance is required. The path cannot be in a vehicular way or pass behind parked cars.

Olivier Baviere

Department of Planning, Building, and Code Enforcement

(408) 535-7734 Olivier.Baviere@sanjoseca.gov

Memorandum

TO: Matthew VanOosten
Planning and Building

FROM: Allen Baquilar
Public Works

**SUBJECT: 2nd INITIAL RESPONSE TO
DEVELOPMENT APPLICATION**

DATE: 12/3/12

Approved

Date

PLANNING NO.: CP12-025

DESCRIPTION: Conditional Use Permit to remodel an existing gasoline service station, legalize and expand an existing convenience store use, and add two new fuel dispensers with expanded canopy on a 0.66 gross acre site

LOCATION: Northeast corner of Piedmont Road and Sierra Road

P.W. NUMBER: 3-18238

Public Works received the subject project on 08/15/12 and submits the following comments and requirements. **Upon completion of the Action/Revisions Required items by the applicant, Public Works will forward a Final Memo to the Department of Planning prior to the preparation of the Staff Report for Public Hearing.**

Actions / Revisions Required:

1. **Public Works Development Review Fees:** Additional Public Works Review Fees are due. Prior to the project being cleared for the hearing and approval process, these fees shall be paid to the Development Services Cashier using the attached invoice(s). Additional fees due are as follows:
 - a) An in-house traffic analysis fee in the amount of \$949.
1. **Geology:**
 - a) A Geologic Hazard Clearance is required prior to approval of this Planning application.
 - b) A geologic report addressing the potential hazards of fault rupture, slope stability, and erosion must be submitted to and accepted by the City Engineering Geologist prior to environmental clearance or zoning approval.

Project Conditions:

Public Works Clearance for Building Permit(s) or Map Approval: Prior to the approval of the Tract or Parcel Map (if applicable) by the Director of Public Works, or the issuance of Building permits, whichever occurs first, the applicant will be required to have satisfied all of the following Public Works conditions. The applicant is strongly advised to apply for any necessary Public Works permits prior to applying for Building permits.

2. **Minor Improvement Permit:** The public improvements conditioned as part of this permit require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This permit includes privately engineered plans, insurance, surety deposit, and engineering and inspection fees.
3. **Transportation:** An in-house traffic distribution has been performed for this project based on an additional 56 PM peak hour trips (highest peak hour scenario). We conclude that the subject project will be in conformance with the City of San Jose Transportation Level of Service Policy (Council Policy 5-3) and a determination for a negative declaration can be made with respect to traffic impacts.
4. **Stormwater Runoff Pollution Control Measures:** The use of the site as a Gas Station is a Land Use of Concern per the Post Construction Urban Runoff Policy (Council Policy 6-29). Source control measures are required and, at a minimum, vehicle or equipment fueling areas and loading docks must be covered and paved and the surrounding portions of the site graded to prevent stormwater runoff from contacting and conveying gasoline and other vehicle-related pollutants into the storm drain system.
5. **Grading/Geology:**
 - a) A grading permit may be required prior to the issuance of a Public Works Clearance. The construction operation shall control the discharge of pollutants (sediments) to the storm drain system from the site. An erosion control plan may be required with the grading application.
 - b) A soils report must be submitted to and accepted by the City prior to the issuance of a grading permit.
 - c) All on-site storm drainage conveyance facilities shall be reviewed and approved under Public Works grading and drainage permit prior to the issuance of Public Works Clearance. The drainage plan should include all underground pipes, building drains, area drains and inlets. The project shall provide storm drainage calculations that adhere to the 2010 California Plumbing Code or submit a stamped and signed alternate engineered design for Public Works discretionary approval.
6. **Sewage Fees:** In accordance with City Ordinance all storm sewer area fees, sanitary sewer connection fees, and sewage treatment plant connection fees, less previous credits, are due and payable.
7. **Undergrounding:**
 - a) The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to Piedmont Road prior to issuance of a Public Works clearance. 50 percent of the base fee in place at the time of payment will be due. Currently, the 2012 base fee is \$412 per linear foot of frontage and is subject to change every January 31st based on the Engineering News Record's 20 City Average Cost Index. . The project will be required to pay the current rate in effect at the time the Public

Works Clearance is issued. (Based on 2012 rate, the fee is approximately \$65,300.)

- b) The Director of Public Works may, at his discretion, allow the developer to perform the actual undergrounding of all off-site utility facilities fronting the project adjacent to Piedmont Road. Developer shall submit copies of executed utility agreements to Public Works prior to the issuance of a Public Works Clearance.

8. **Street Improvements:**

- a) Applicant shall be responsible for removing and replacing curb, gutter, and sidewalk damaged during construction of the proposed project.
- b) Replace existing cracked pavement at VTA Bus Stop.
- c) Reconstruct bus pad on Piedmont Road to current VTA Standards.
- d) Driveway closest to the intersection of Piedmont Road and Sierra Road is to be closed.
- e) The northernmost driveway on Piedmont Road to be 36' maximum.
- f) Upgrade existing handicap ramp at the corner of Piedmont Road and Sierra Road to current CSJ standards.

9. **Electrical:** Existing electroliers along the project frontage will be evaluated at the public improvement stage and any street lighting requirements will be included on the public improvement plans

10. **Referrals:** This project should be referred to the Valley Transportation Authority (VTA).

Please contact me at (408) 793-5309 or by email at Allen.Baquilar@sanjoseca.gov if you have any questions.

Allen Baquilar
Project Engineer
Development Services Division

AB:NM

6000_32009368099.DOC

**DRAFT
NEGATIVE DECLARATION**

The Director of Planning, Building and Code Enforcement has reviewed the proposed project described below to determine whether it could have a significant effect on the environment as a result of project completion. "Significant effect on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.

NAME OF PROJECT: Rotten Robbie Gas Station

PROJECT FILE NUMBER: CP12-025

PROJECT DESCRIPTION: Conditional Use Permit to allow: the remodeling of an existing 1,617 square foot gas station that consists of a sales kiosk and three service bays; enclosing an existing 75 square foot overhang; installation of two multi-product fuel dispensers under a new extended canopy; and to legalize the existing convenience store on a 0.66 gross acre site.

PROJECT LOCATION: 1304 Piedmont Road, San Jose, CA 95132

ASSESSORS PARCEL NO: 595-10-038

COUNCIL DISTRICT: 4

APPLICANT CONTACT INFORMATION:

LHB & Associates LTD
Attention: J.R. Beard
867 Pacific Street, Suite 120
San Luis Obispo, CA 93401
(805) 540-5240

PROJECT APPLICANT'S NAME AND ADDRESS:

Robinson Oil Company, 955 Martin Avenue, Santa Clara CA 95050

FINDING:

The Director of Planning, Building & Code Enforcement finds the project described above will not have a significant effect on the environment in that the **attached initial study identifies the project will not have a significant effects on the environment** for which the project applicant, before public release of this draft Negative Declaration.

- I. AESTHETICS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- II. AGRICULTURE RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- III. AIR QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.

- IV. **BIOLOGICAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- V. **CULTURAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VI. **GEOLOGY AND SOILS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VII. **GREENHOUSE GAS EMISSIONS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- VIII. **HAZARDS AND HAZARDOUS MATERIALS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- IX. **HYDROLOGY AND WATER QUALITY** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- X. **LAND USE AND PLANNING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XI. **MINERAL RESOURCES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XII. **NOISE** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIII. **POPULATION AND HOUSING** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XIV. **PUBLIC SERVICES** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XV. **RECREATION** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVI. **TRANSPORTATION / TRAFFIC** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVII. **UTILITIES AND SERVICE SYSTEMS** – The project will not have a significant impact on this resource, therefore no mitigation is required.
- XVIII. **MANDATORY FINDINGS OF SIGNIFICANCE** – The project will not substantially reduce the habitat of a fish or wildlife species, be cumulatively considerable, or have a substantial adverse effect on human beings, therefore no mitigation is required.

PUBLIC REVIEW PERIOD

Before 5:00 p.m. on February 8, 2013, any person may:

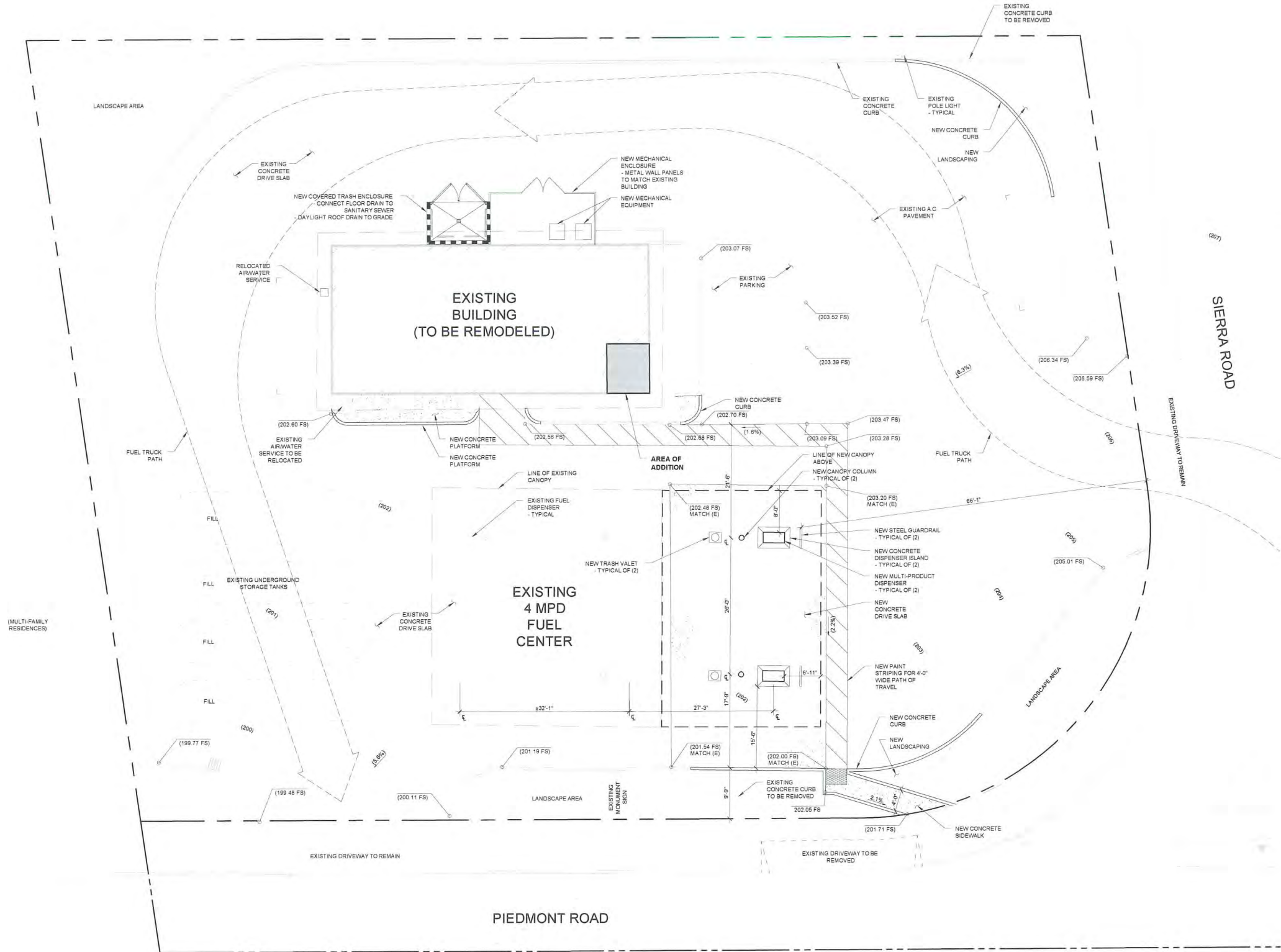
1. Review the Draft Negative Declaration (ND) as an informational document only; or
2. Submit written comments regarding the information, analysis, and mitigation measures in the Draft ND. Before the ND is adopted, Planning staff will prepare written responses to any comments, and revise the Draft ND, if necessary, to reflect any concerns raised during the public review period. All written comments will be included as part of the Final ND.

Joseph Horwedel, Director
Planning, Building and Code Enforcement


DEPUTY

Circulation started on: 1/10/2013
Circulation ends: 2/08/2013

(COMMERCIAL - OLIVERA EGG RANCH)



PROJECT DESCRIPTION

THE PROJECT CONSISTS OF REMODELING AN EXISTING 1,617 SQUARE FOOT BUILDING CONSISTING OF A SALES KIOSK WITH (3) SERVICE BAYS, INCLUDING ENCLOSING AN EXISTING 75 SQUARE FOOT OVERHANG AREA. IN ADDITION, TWO MULTI-PRODUCT DISPENSERS ARE PROPOSED TO BE INSTALLED UNDER A NEW FUELING CANOPY, AND THE EXISTING CANOPY IS TO BE MODIFIED TO RECEIVE NEW FASCIA

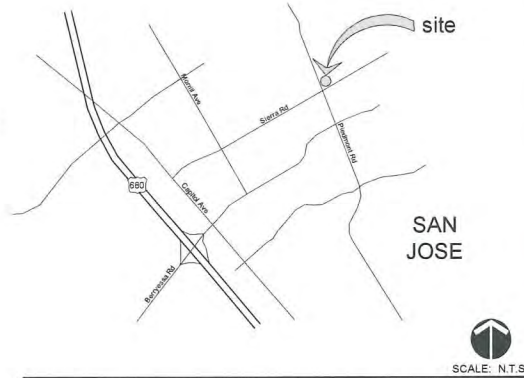
SHEET INDEX

C1.1 PRELIMINARY SITE PLAN AND GRADING PLAN
A1.1 PRELIMINARY FLOOR PLAN AND EXTERIOR ELEVATIONS
A2.1 EXISTING / NEW CANOPY AND TRASH ENCLOSURE EXTERIOR ELEVATIONS
L1.1 EXISTING LANDSCAPE PLAN
PH1.1 SITE PHOTOS

SITE STATISTICS

SITE ADDRESS: 1304 PIEDMONT ROAD
GOVERNING JURISDICTION: CITY OF SAN JOSE
A.P.N.: 595-10-038
EXISTING BUILDING AREA : 1,617 S.F.
PROPOSED BUILDING ADDITION : 75 S.F.
TOTAL BUILDING AREA : 1,692 S.F.
FUELING POSITIONS: 7 DISPENSERS, 14 POSITIONS
PARKING: REQUIRED = 11 SPACES
((1,692 S.F. x 85%) / 200 = 8 STALLS, (1) EMPLOYEE, (1) AIR/WATER, (1) INFORMATION)
PARKING: PROVIDED = 11 SPACES (5 STALLS AND 6 UNDER CANOPY LOCATIONS)

VICINITY MAP



- NOTES:**
- TOPOGRAPHIC INFORMATION SHOWN PROVIDED BY SLOOTEN CONSULTING, INC. DATED DECEMBER 2011.
 - BEST MANAGEMENT PRACTICES (BMP'S) SOURCE CONTROL MEASURES:
SC-11 SPILL PREVENTION, CONTROL AND CLEANUP,
SC-20 VEHICLE AND EQUIPMENT FUELING,
SC-42 BUILDING REPAIR AND CONSTRUCTION,
SC-43 PARKING/STORAGE AREA MAINTENANCE.



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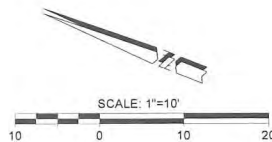
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OWNER: 6/18/2012
REG. AGENCIES 6/18/2012
O.T.B.: --

PROJECT NO: 09-30-43
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CHECKED BY: JRB

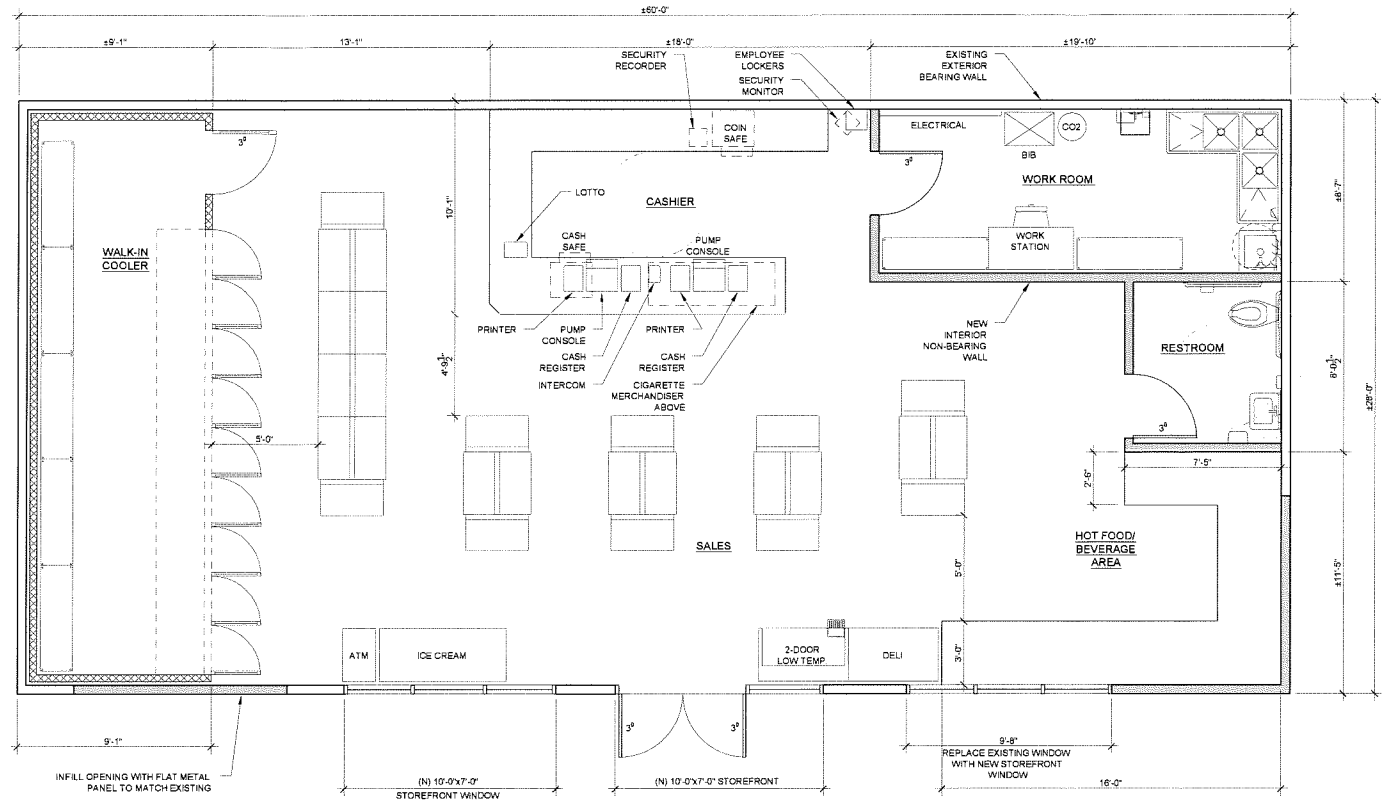
ROTTEN ROBBIE #43
SAN JOSE, CALIFORNIA
1304 PIEDMONT ROAD
SAN JOSE, CALIFORNIA 95132-2425

SHEET TITLE
PRELIMINARY
SITE PLAN
AND
GRADING
PLAN

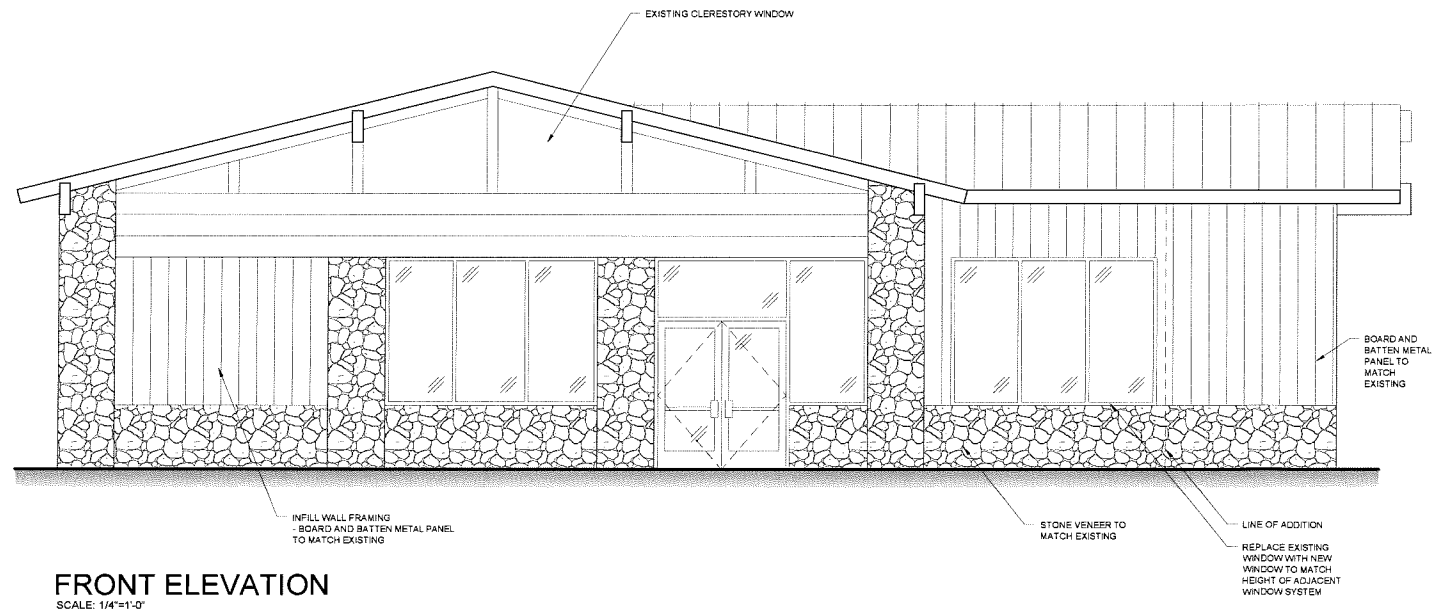
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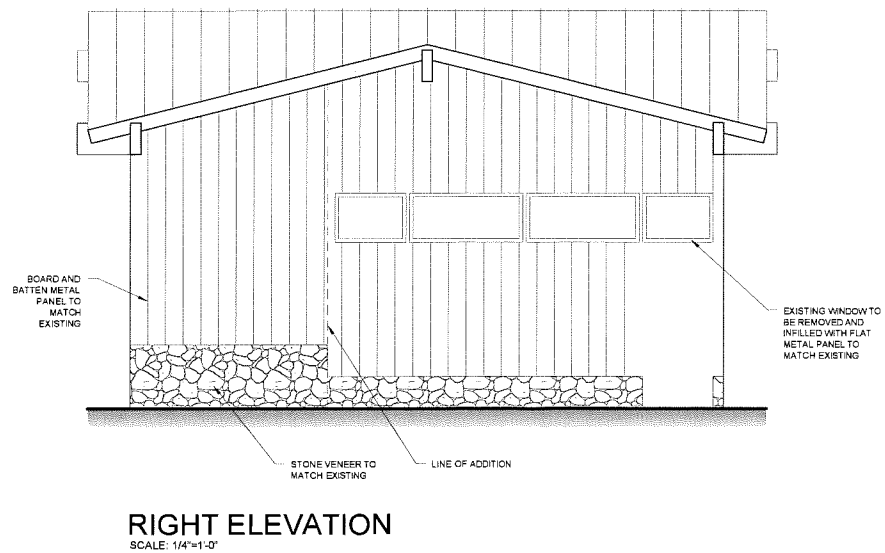
G:\09-30 Rotten Robbie C&E San Jose\0930103 Preliminary\Submittal\A43 C11.dwg 1/26/13 10:31 PM JRB



REMODEL FLOOR PLAN
SCALE: 1/4"=1'-0"



FRONT ELEVATION
SCALE: 1/4"=1'-0"



RIGHT ELEVATION
SCALE: 1/4"=1'-0"

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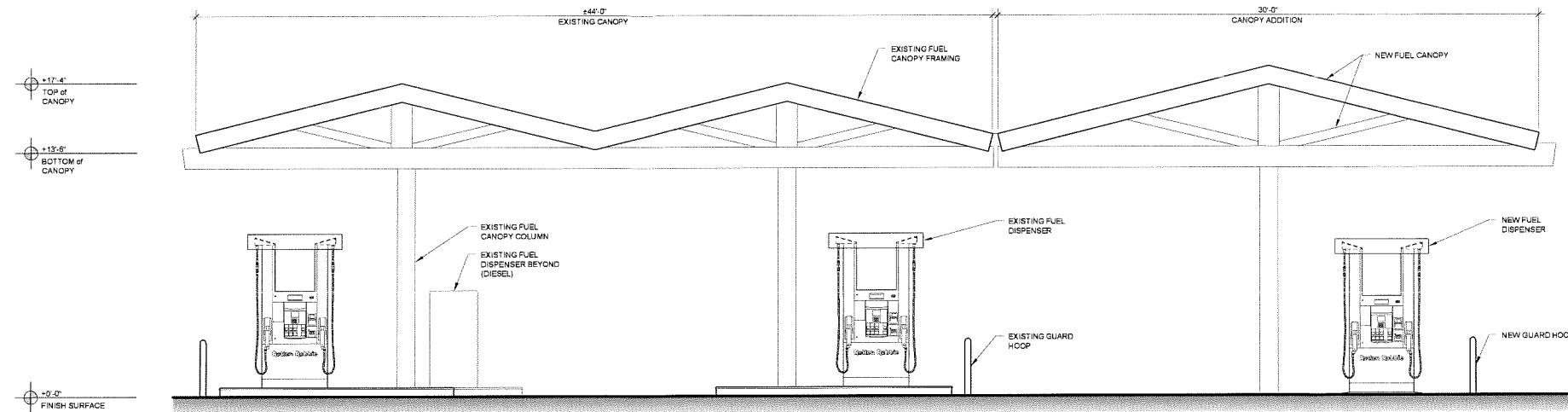
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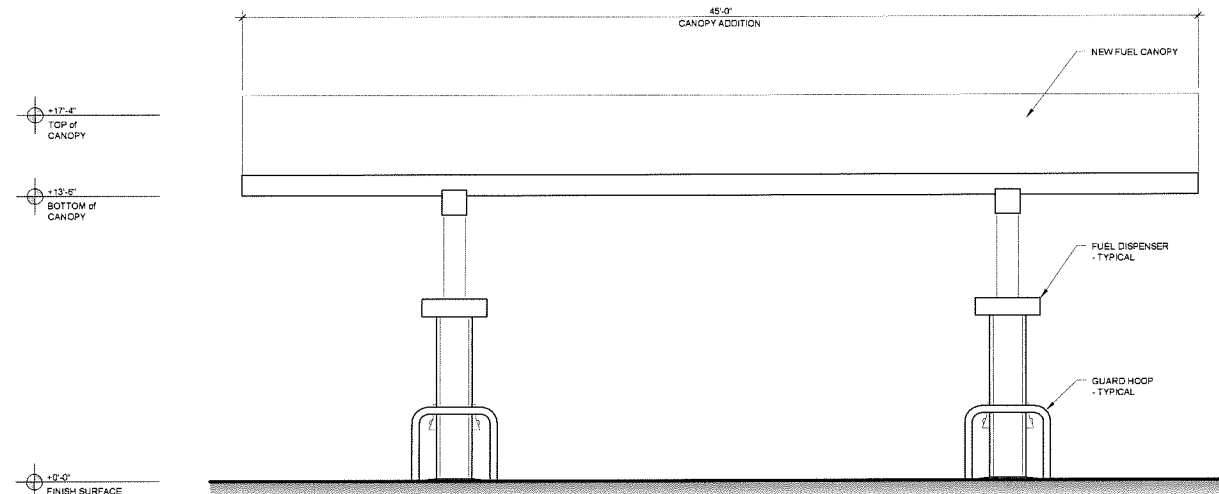
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SAN JOSE, CALIFORNIA 95132-2425

SHEET TITLE
PRELIMINARY
FLOOR PLAN
AND
EXTERIOR
ELEVATIONS

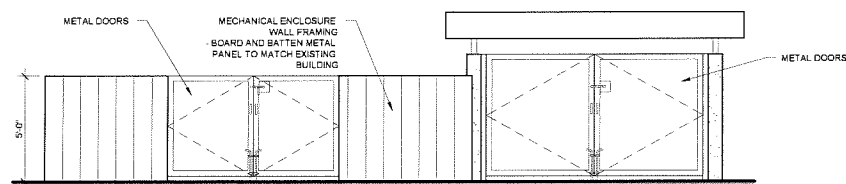
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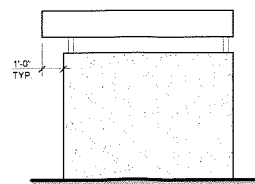
VIEW FROM PIEDMONT ROAD
SCALE: 1/4"=1'-0"



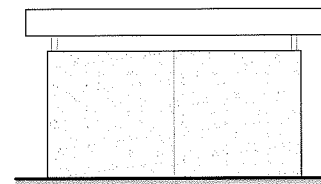
VIEW FROM SIERRA ROAD
SCALE: 1/4"=1'-0"



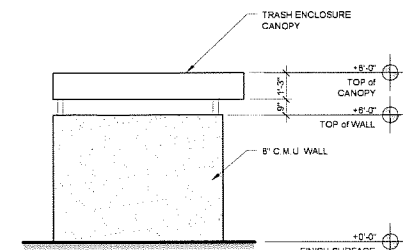
FRONT ELEVATION
SCALE: 1/4"=1'-0"



RIGHT ELEVATION
SCALE: 1/4"=1'-0"

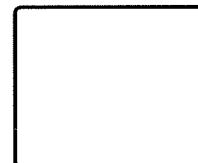


REAR ELEVATION
SCALE: 1/4"=1'-0"



LEFT ELEVATION
SCALE: 1/4"=1'-0"

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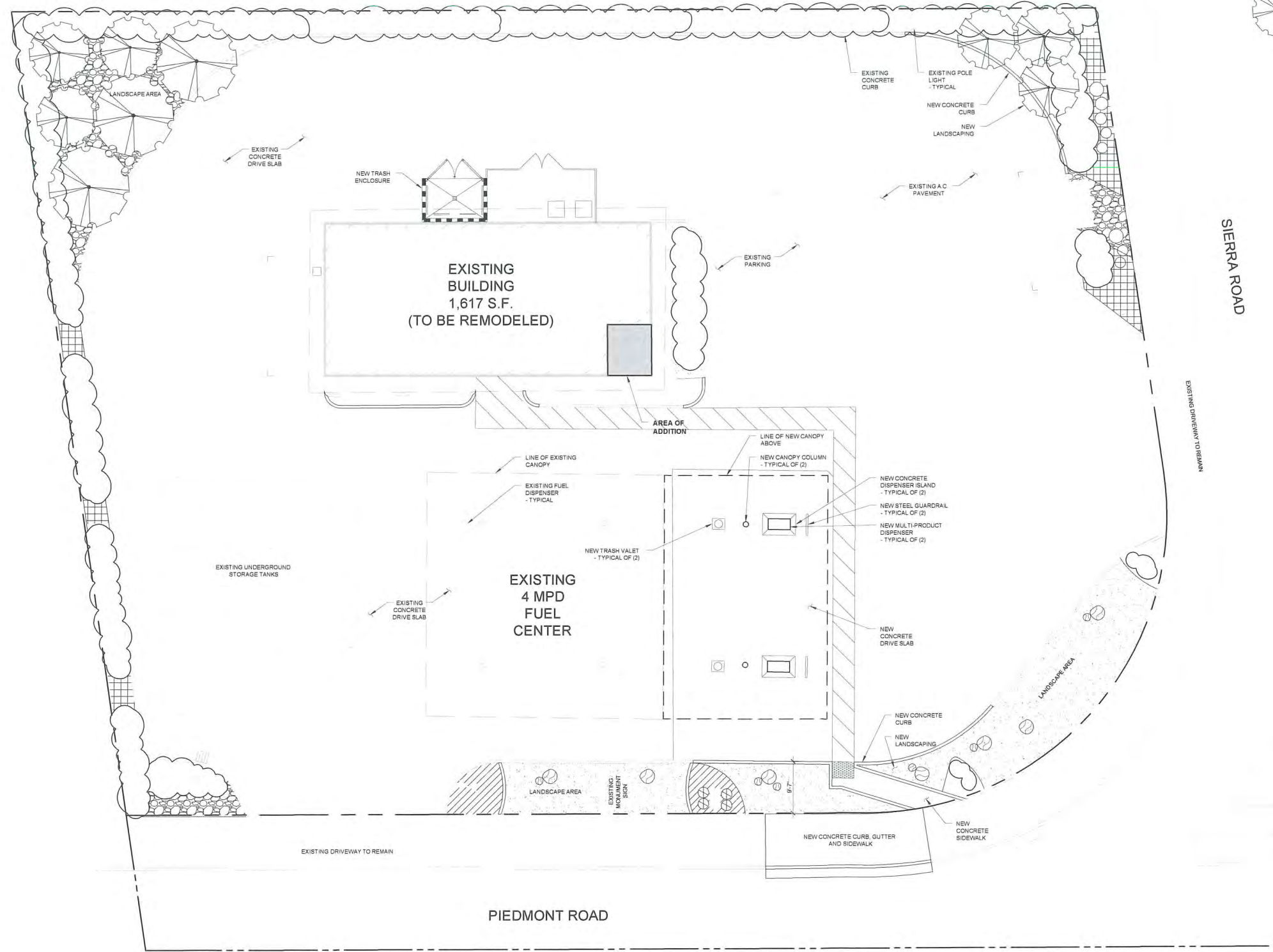
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REG. AGENCIES 6/18/2012
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SHEET TITLE
EXISTING /
NEW
CANOPY AND
TRASH
ENCLOSURE
EXTERIOR
ELEVATIONS

SHEET NO.
A2.1



LEGEND					
SYMBOL	SIZE	QTY	MATURE HEIGHT	BOTANICAL NAME	COMMON NAME
TREES					
	-	-	-	PRUNUS CERASIFERA LIQUIDAMBAR	PURPLE LEAF PLUMS SWEET GUM
SHRUBS					
	-	-	-	XYLOSMA CONGESTUM PHOTNIA	XYLOSMA HEDGE RED TIP PHOTNIA
	-	-	-	RHAPHIOLEPIS INDICA	INDIA HAWTHORN
	-	-	-	SILVUS	BONWOOD
	-	-	-	ARTEMISIA ABSENTHIUM	WORMWOOD
	-	-	-	NANDINA DOMESTICA	HEAVENLY BAMBOO
GROUND COVER					
	-	-	-	GAZANIA	GAZANIA
	-	-	-	-	ROCK MULCH
	-	-	-	-	SOIL
	-	-	-	-	TURF
SITE FEATURES					
	-	-	-	-	BOULDER

EXISTING LANDSCAPED AREA

PROPOSED LANDSCAPED AREA

TOTAL LANDSCAPED AREA

4,124 S.F.

448 S.F.

4,573 S.F. (15.9%)

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1304 PIEDMONT ROAD

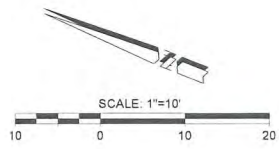
SAN JOSE, CALIFORNIA 95132-2425

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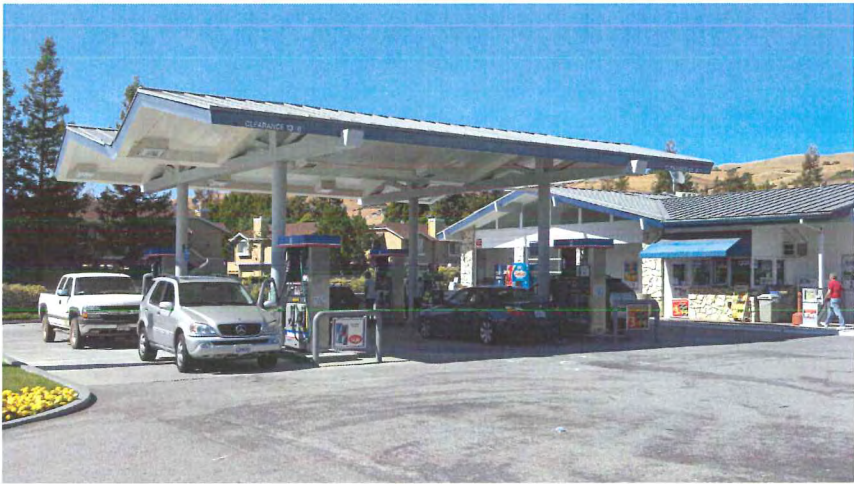
EXISTING LANDSCAPE PLAN

SHEET NO.

L1.1



G:\09-30 Robinson Oak43 San Jose\093043 Landscaping\Submittals\43 L1.dwg 1/20/13 10:33 PM JRB



VIEW FROM INTERSECTION OF
PIEDMONT ROAD AND SIERRA ROAD



VIEW FROM PIEDMONT ROAD
LOOKING EAST



VIEW FROM PIEDMONT ROAD
LOOKING NORTHEAST



VIEW FROM PIEDMONT ROAD
LOOKING NORTHEAST



VIEW FROM SIERRA ROAD
LOOKING NORTH



VIEW FROM SIERRA ROAD
LOOKING NORTHWEST





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SHEET TITLE

PHOTO
EXHIBIT

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